

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RHEASHAD LAMAR LOTT,)
ID #1596571,)
Petitioner,)
vs.) No. 3:13-CV-2699-M
)
LORIE DAVIS, Director,)
Texas Department of Criminal)
Justice, Correctional Institutions Division,)
Respondent.)

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

After reviewing all relevant matters of record in this case, including the Findings, Conclusions, and Recommendation of the United States Magistrate Judge for plain error, the Court is of the opinion that the Findings and Conclusions of the Magistrate Judge are correct and they are accepted as the Findings and Conclusions of the Court.

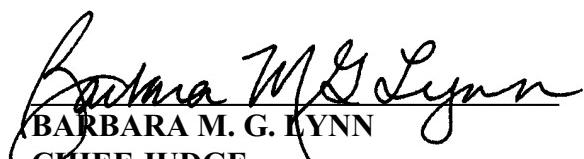
For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the petition for habeas corpus is successive and is hereby **TRANSFERRED** to the United States Court of Appeals for the Fifth Circuit pursuant to *Henderson v. Haro*, 282 F.3d 862, 864 (5th Cir. 2002), and *In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997).¹

The Clerk of the Court is **DIRECTED** to (1) terminate the post-judgment motion (doc. 38) and application to proceed *in forma pauperis* (doc. 39) in this habeas case; (2) open a new habeas case for administrative purposes only; (3) docket the post-judgment motion (doc. 38) as a § 2254 motion filed on July 25, 2017, in that new case; (4) docket the application to proceed *in forma pauperis* (doc. 39) and the order granting the application in that new case; (5) directly assign the new

¹ A certificate of appealability (COA) is not required to appeal an order transferring a successive habeas petition. See *In re Garrett*, 633 F. App'x 260, 261 (5th Cir. 2016); *United States v. Fulton*, 780 F.3d 683 (5th Cir. 2015).

case to the same District Judge and Magistrate Judge as in this case; (6) file a copy of the Findings, Conclusions, and Recommendation of the United States Magistrate Judge and the order accepting those Findings, Conclusions, and Recommendation, and the judgment in that new case; and (7) and without further judicial action, immediately **TRANSFER** the newly opened § 2254 action to the United States Court of Appeals for the Fifth Circuit.

SIGNED this 21st day of August, 2017.



Barbara M. G. Lynn
BARBARA M. G. LYNN
CHIEF JUDGE